

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEARING ON THE GOOD OLD BOYS ROUNDUP

Mr. LEAHY. Mr. President, as an American citizen, public official, and former prosecutor, I am appalled at the news accounts I have seen of State, local, and Federal law enforcement officers getting together to wallow in racism. There is no room for racism in law enforcement. Law enforcement officers, in particular, have to be held to the highest standards of conduct. People have to know that they will be treated fairly by those who act on behalf of the Government and wield its power.

As we proceed with the Judiciary Committee hearing, I expect that we will hear a chorus of condemnation. I expect that we will hear each agency join in that refrain, explain that it is investigating the situation and that it will be taking appropriate action based on the facts. We should all act based on the facts. I look forward to the prompt completion of ongoing investigations and to our following up, when the facts are known.

It is tragic that racism is still a fact of life. It is most disconcerting if racism taints law enforcement actions. That is wholly unacceptable. I note that the reports of the activities at the recent Good Old Boys Roundup in Tennessee do not go that far, however—I have yet to hear any allegation that the official duties of the State, local, and Federal law enforcement agents who chose to attend the gathering were affected. That should be our first concern.

Next, we should be concerned whether Federal law enforcement resources were devoted to organizing or supporting these gatherings. The American people need to know that their tax dollars are not being diverted to such activities.

Further, we have to be concerned that our culture, and the culture in which these various law enforcement officers live and work, still abide these gatherings and displays.

As we consider whether additional steps, policies, regulations, or laws are needed to root out the evils of racism, we must be mindful that we not create political litmus tests or become thought police. We need to be sensitive to the limits of law and preserve some place for private lives and private thoughts.

We must also be careful to avoid being exploited by those with ulterior motives who oppose valid law enforcement. Our actions and those of the executive branch must be based on facts, not third-hand news accounts.

Finally, we must not allow this shameful incident to taint the vast majority of fine and dedicated men and women who risk so much to protect us and the rule of law every day.

COMPREHENSIVE REGULATORY REFORM

Mr. ROTH. Mr. President, why did S. 343 fail last night? As Casey Stengel would say, we did not have enough votes. And we did not have the votes we needed because no matter what changes were made to S. 343, it continued to be mischaracterized. From the beginning of its journey through the Judiciary Committee, S. 343 was demonized. Likewise, the bill reported from the Governmental Affairs Committee, S. 291, was beatified.

Scores of improvements were made to S. 343 since it was reported by the Judiciary Committee. None of the few who understands the legislation would disagree. Moreover, yesterday proponents agreed to make significant additional changes requested by the bill's critics. But just as it went throughout the long floor debate, the opponents would not accept some improvements unless we agreed to all of their demands. Yes, opponents blocked our attempts to improve the bill because they preferred to preserve talking points against the bill. This is masterful politics, but this is also what disgusts the American people about Congress.

In addition, it appears that proponents managed to create the impression that negotiations were ongoing that promised fruitful results. If such negotiations took place, like Senator JOHNSTON, I can say that I was completely unaware.

In contrast to S. 343, S. 291 and its successors have led charmed lives. The Glenn substitute, which the Senate rejected, was offered as the text that was unanimously reported by the Governmental Affairs Committee. But such a claim is highly misleading. Let me tell you why.

This legislation is rather complicated. The competing versions are each over 75 pages in length. Yet the real heart of reform can be crystallized in a few concepts and in language that takes just a few pages. In fact, judicial review—perhaps the most significant and most controversial part of these bills—is provided in just one sentence. Yes, just one sentence.

Suppose that sentence were stricken. Could you say that the bill was just about the same? The length of the bill would not be changed; over 99 percent of the words would be the same. But the impact of the legislation would be entirely different. This exemplifies what happened to S. 291 as it was transformed into the Glenn substitute.

There are, as I said, just a few concepts one needs to grasp to understand regulatory reform.

First. The agency should undertake a cost-benefit analysis.

Second. The agency should apply the cost-benefit analysis.

Third. If the agency does not comply with the first or second item, there is judicial review.

Fourth. The agency must review existing rules under the above procedures.

Fifth. There must be some way to ensure the agency reviews existing rules.

Proponents and opponents appear to agree only on the first item, that agencies should perform cost-benefit analyses. That is because that is the status quo. That is what Executive Order 12866 requires today.

But the Glenn substitute did not require that an agency actually use the cost-benefit test. While the Glenn substitute used language similar to S. 291 to require that a cost-benefit analysis be performed for major rules, the Glenn substitute has no enforcement provision to make clear that the cost-benefit analysis should matter—that it should affect the rule. The Glenn substitute excoriated the sentence on judicial review in S. 291 that made clear that the court was to focus on the cost-benefit analysis in determining whether the rule was arbitrary and capricious. That provision in S. 291 was taken from a 1982 regulatory reform bill, S. 1080, which was approved by a 94-0 vote in the Senate before it died in the House. In contrast, the Glenn substitute only required that the cost-benefit analysis be inserted in the RECORD with thousands of other documents and comments. This is essentially what happens under the current Executive order.

The Glenn substitute had another fatal defect—it did not provide for an effective review of existing rules. Effective regulatory reform cannot be prospective only; it must look back to reform old rules already on the books. Since 1981, repeated presidential attempts to require the review of rules by Executive order have only met with repeated failures.

But the Glenn substitute does not cure the problem. Like the Executive orders, the Glenn substitute makes the review of rules an essentially voluntary undertaking. There are no firm requirements for action—no set rules to be reviewed, no binding standards, no meaningful deadlines. The Glenn substitute merely asks each agency to issue every 5 years a schedule of rules that, "in the sole discretion" of the agency, merit review.

The Glenn substitute seriously weakened the lookback provision in S. 291. While not perfect, S. 291 did have firm requirements. S. 291 prescribed the category of rules that the agencies were to review. If the agency failed to review any of those rules, they terminated automatically. The Glenn substitute had no such firm requirements.

What a review of these elements shows is clear: the Glenn substitute was an elaborate re-write of the status quo. Reform—without change. For those few who understand what was

happening on the Senate floor, it could not be clearer.

The real losers last night were the American people. We, on the Senate floor, know that the discretion of regulators needs to be curtailed. We know that reform can be achieved in a way that fosters our health, safety, and environmental goals. S. 343 is, in fact, such a bill. But unfortunately, that was not quite clear enough last night.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, July 20, the Federal debt stood at \$4,935,796,845,291.29. On a per capita basis, every man, woman, and child in America owes \$18,736.37 as his or her share of that debt. Well before the end of the year, the Federal debt will pass the \$5 trillion mark.

REGULATORY REFORM

Mr. GLENN. Mr. President, throughout the continuing debate on regulatory reform a number of things have become very clear:

First, the vast majority of Members of the Senate want regulatory reform—the speeches, the floor debates, the combined totals of the votes for reform of one kind or another show that Democrats and Republicans alike want regulatory reform.

Second, despite bipartisan refusal to accept the majority leader's bill, there is bipartisan support for tough regulatory reform legislation as shown by the 48-to-52-vote to substitute the Glenn-Chafee bill—a bill based on the bipartisan work of the Governmental Affairs Committee—for the Dole-Johnston bill.

Third, despite the majority leader's disappointment in his failure to gain acceptance for his proposal, there continues to be wide support for continuing to negotiate cooperatively to come up with a workable reform bill. We have made good faith efforts throughout this debate: we have come to the table on three different occasions with the proponents of the Dole-Johnston substitute; we have written lists of issues and have provided legislative language to address our concerns. The latest round of these efforts to provide our responses to some of their proposals was yesterday—just an hour before the third cloture vote. These lists were not new inventions of new problems, but a consistent, continuing set of concerns. Our list of concerns has narrowed as negotiations have progressed. We have not, as some Members have alleged, invented new problems merely to delay or confuse the debate.

Fourth and finally, in the heat of this debate, in what seems to be a part of the desperation of a few to make the best of a bad situation, some unfortunate and misleading statements have been made about our bill. I am very disappointed, and in fact surprised, by

the statements of Senator ROTH. We worked together in the Governmental Affairs Committee to make his regulatory reform bill, S. 291, into a strong bipartisan bill that could be and indeed was supported by every member of the Committee—8 Republicans and 7 Democrats. Just when the Wall Street Journal was unfairly and inaccurately characterizing the Roth bill as “a do-nothing bill” as it did on April 27, 1995, Senator ROTH and I were working together and agreeing that we had a tough but fair bill that could gain the support of the Committee and should be the bill that could and should pass the full Senate.

Last week he made charges against the Glenn-Chafee bill with regard to risk assessment provisions, saying that we took the National Academy of Sciences “minority views” by preferring “default assumptions to relevant data.” As I pointed out on the floor, that was not correct. Our bill says to use default assumptions when relevant data are lacking. And our bill requires agencies to put out guidelines in refining default assumptions and replacing those assumptions with real data. Clearly, our bill does not give a preference to assumptions over data.

Yesterday, and this is the reason I return to the floor today to set the record straight, he said the Glenn-Chafee bill is “toothless”—yes, just the word the Wall Street Journal used to attack him a few months ago, that it is completely different from the Roth-Glenn bill that came out of the Governmental Affairs Committee, and that it has a completely different thrust.

It is also ironic that my colleague from Delaware now so clearly defends the S. 291 review process, stating on July 17 on the floor, “Although the original Glenn bill was similar to the Roth bill, the current Glenn substitute seriously differs from the Roth bill * * * Senator Glenn has seriously weakened the review of rules * * * The revised Glenn substitute lacks any firm requirement about the number of rules to be reviewed.” However, in his “Dear Colleague” letter on July 11 he states, “S. 291—and S. 1001—has substantial administrative difficulties. They require every major rule to be reviewed in a 10-year period, with a possible 5-year extension, or be subject to termination. * * * It would be very burdensome to review all existing major rules—unduly burdensome when nobody is complaining about many of them.” He calls us weak for not sticking to the Roth bill, and then calls the Roth bill “unduly burdensome.”

I can understand loyalty, but I am surprised at the degree to which my colleague has turned away from his earlier, commendable reform efforts. He has now put himself in the strange position of attacking many of the same provisions he so enthusiastically supported just a few short months ago.

Yesterday, I insisted that the Glenn-Chafee bill is based on the Roth-Glenn bill, S. 291, and that the Glenn-Chafee

bill is largely identical with S. 291. In fact, the Glenn-Chafee bill differs from S. 291 in only three major ways to match S. 1001 and a few lesser ways in order to match amendments to the Dole-Johnston bill. Senator Roth, on the other hand, said “what we voted for in Committee was entirely different from what we voted for on the floor in the Glenn substitute.” For the record, I would like to provide a comparison of the two bills, and as the RECORD will show, most of the sections are identical. To reiterate, we made three changes, and we made additional changes to match amendments to the Dole-Johnston bill.

First, the Glenn-Chafee substitute, which was voted for by 48 Senators, is a slight modification of S. 1001, which I introduced with Senator Chafee. S. 1001 differs from S. 291 on only three major points:

It does not sunset rules that fail to be reviewed. Rather it establishes an action-enforcing mechanism that uses the rulemaking process.

It does not include any narrative definitions for “major” rule—such as “adverse effects on wages”.

It incorporates technical changes to risk assessment to track more closely the approach of the National Academy of Sciences and to cover specific programs and agencies, not just agencies.

Second, in the weeks since introduction of S. 1001, negotiations and debate have resulted in common agreement on improvements, both to the Dole-Johnston and the Glenn-Chafee proposals. Accordingly, the final version of Glenn-Chafee, which again was supported by a bipartisan vote of 48 Senators, contains some additional changes. Most of these are also found in the Dole-Johnston bill, which Senator Roth now supports. So I find it difficult to understand how the Senator from Delaware can criticize these changes.

Mr. President, I ask unanimous consent that a comparison of the two bills be printed in the RECORD.

There being no objection, the comparison was ordered to be printed in the RECORD; as follows:

SECTION BY SECTION COMPARISON OF GLENN- CHAFEES AND ROTH-GLENN

Section 1. Title.

Section 2. Definitions—identical.

Section 3(a). Analysis of Agency Rules.

Subchapter II. Cost-Benefit Analysis.

Section 621. Definitions—identical but for changes made in Dole/Johnston.

Section 622. Rulemaking cost-benefit analysis—identical except for changes made in the Dole/Johnston bill; the time limit for determining a major rule after publication of a proposed rule; and the effective date for initial and final cost-benefit analysis (does not cover rules in the pipeline).

Sec. 623. Judicial Review—identical but for clarification in 623(e).

Sec. 624. Deadlines for Rulemaking—identical.

Sec. 625. Agency Regulatory Review. As already noted, S. 1001 modified the S. 291 review process so as to not sunset rules that fail to be reviewed. Rather it establishes an action-enforcing mechanism that uses the rulemaking process. Also struck provision